



**HELEN F. DALTON & ASSOCIATES, P.C.**  
**ATTORNEYS AT LAW**

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April 14, 2022

**Via ECF**

The Honorable Kenneth M. Karas, U.S.D.J.  
United States District Court  
Southern District of New York  
The Hon. Charles L. Brieant Jr.  
Federal Building and United States Courthouse  
300 Quarropas St.  
White Plains, NY 10601

**MEMO ENDORSED**

Re: **Wilder v. Acevedo Painting Corp. et al.**  
Civil Docket No.: 7:21-cv-11091 (KMK)

Dear Judge Karas:

We represents Plaintiff Antonio Juarez Wilder, individually, and on behalf of all others similarly situated (“Plaintiff”) in this collection action, and we respectfully submit this letter motion and status report letter, to request an extension of time for Plaintiff to file his Motion for Entry of a Default Judgment for the reasons explained below. This is Plaintiff’s first request for an extension of time to move, and this request for an extension does not affect any other scheduled dates or deadlines in this action.

**Relevant Background**

Plaintiff commenced this FLSA action against Acevedo Painting Corp., and Sixto O. Acevedo, as an individual (collectively, “Defendants”) on December 28, 2021 to recover damages, in chief, for Defendants’ failure to pay Plaintiff any overtime wages, despite Plaintiff regularly working for the Defendants in excess of 40 hours per week. *See* Dkt. No. 1. Acevedo Painting Corp. was served on January 11, 2022 via the office of the Secretary of State; and Sixto O. Acevedo, as an individual, was served with process on January 12, 2022. *See* Dkt. Nos. 10; 10-1. The Defendants are aware of this litigation and of Plaintiff’s complaint pending against them, and to date, have not appeared nor interposed an answer to Plaintiff’s complaint.

On March 1, 2022, we wrote The Court, to apprise, *inter alia*, that despite Mr. Acevedo’s earlier assertions that the Defendants intended to retain counsel to appear on this matter, we were later advised that the Defendants had decided not to do so. As such, we “respectfully request[ed] fourteen (14) days from the date of the Court’s granting of this request, for Plaintiff to file his Requests for Certificates of Default as against all Defendants (should Defendants fail to respond, appear, or retain counsel by that time); and thirty (30) days from the date of the Clerk’s entry of said default, for Plaintiff to file

his anticipated motion for the entry of a default judgment against all Defendants, and related motion papers, in accordance with Your Honor's Individual Motion Practices and Rules – similarly, if Defendants fail to respond or appear on this matter by such time.” See Dkt. Nos. 13.

In accord therewith, Plaintiff filed his requests for Certificates of Default against all Defendants on March 16, 2022 (*see* Dkt. Nos. 16-19), and the default of Acevedo Painting Corp., and Sixto O. Acevedo, as an individual, were duly entered by the Clerk of Court that same day (*see* Dkt. Nos. 20-21).

However, we have been in continuous contact with Mr. Acevedo, with whom we spoke earlier today; he advised us that he is in the process of retaining counsel on this matter, and anticipates two (2) weeks being sufficient time for him to complete the process. As such, in order to permit the Defendants every opportunity to have this case litigated on its merits, and any anticipated defense counsel sufficient time to appear, enter an appearance and/or interpose an answer to the complaint herein, Plaintiff has not yet filed his anticipated motion for a default judgment.

As such, Plaintiff respectfully requests approximately two (2) additional weeks to move for a default judgment against the Defendants; and proposes May 1, 2022 as the deadline to do so. Should the Defendants retain counsel or otherwise appear or respond on this matter prior to May 1, 2022, we will promptly apprise Your Honor of same.

We thank the Court for its kind consideration on this matter, and we remain available to provide any additional information.

Respectfully submitted,

*Avraham Y. Scher*  
Avraham Y. Scher, Esq.

Granted.

**CC: United States, Certified, First-Class Mail:**

**Acevedo Painting Corp.** (DOS ID: 4235572)  
**Attention: Sixto O. Acevedo**

42 Sasso Lane  
Wingdale, New York 12594

SO ORDERED  
  
KENNETH M. KARAS U.S.D.J.

April 15, 2022